

MINUTES

ALCOHOL AND TOBACCO COMMISSION

APRIL 6, 2005

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Brizzi and Commissioner Sturtz. Also in attendance were Industry Liaison Okey, Executive Secretary Choe and Superintendent Huskey.

Mike Curtz of ILBA, Marc Carmichael of IBA, Jeff McKean, Lisa Goldner of Bose McKinney and Evans, Deb Scott and Matthew Kirby of IABR were present as observers.

DISPOSITION OF MINUTES

Vice Chairperson Brizzi moved to approve the minutes submitted for the March 15, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES AGREED DISPOSITION (PAD) FORMS – Commissioner Sturtz moved to approve the PAD forms submitted for the April 6, 2005 meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

DL34-20253 and DL34-20256 CASEY'S ENTERPRISES, LLC – Hearing Judge Choe stated that these were recommended denials by the Howard County Local Board and an upholding of those denials by the Commission. The applicant filed a timely notice of appeal and both matters were set for appeal hearing. The Hearing Judge now submits Proposed Findings of Fact and Conclusions of Law recommending that the local board be reversed due to the fact that their findings are unsubstantiated by the evidence presented in this case.

Vice Chairperson Brizzi moved to uphold the recommendation of the hearing judge and approve the new permits. Motion seconded by Commissioner Sturtz and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Three hundred fifty-seven (357) renewals approved, thirty-nine (39) new and/or transfer permits approved, thirteen (13) permits conditionally approved, fourteen (14) permits approved for catering, two (2) permits approved for first year escrow, two (2) permits approved for second year escrow and one (1) permit approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Sturtz moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

DL49-21523 GARB-KO, INC., D/B/A 7-ELEVEN STORE #229 – Vice Chairperson Brizzi noted this is new type 116 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR02-84492 NEW-MAN ENTERPRISES, LLC, D/B/A HIDE-N-SEEKS PUB-N-EATERY – Vice Chairperson Brizzi noted this is a type 210 renewal application with the local board voting two (2) to one (1) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL46-21320 SMOKE SHOP II & IV, INC., D/B/A LAPORTE MINI-MART – Vice Chairperson Brizzi noted this is a new type 116 application with the local board voting three (3) to one (1) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR60-98508 THE PUB, INC. – Vice Chairperson Brizzi noted this is a type 209 renewal application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DI82-21381 WAL-MART STORES EAST, LP – Vice Chairperson Brizzi noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR01-04700 MCT'S GRILL & TAVERN, LLC – Vice Chairperson Brizzi noted this application for transfer of ownership was disapproved by the local board due to the fact that the applicant did not appear at the local board meeting. The applicant is requesting that this be remanded to the local board for reinvestigation.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR45-01685 VALENTINE ENRIQUEZ/ERNESTO GUERRERO, D/B/A CRYSTAL TAP – Vice Chairperson Brizzi moved to remand this renewal and transfer of ownership application to the local board for clarification of their recommendation. The local board denied the renewal of this permit and subsequently, approved a transfer of the permit a month later. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

Vice Chairperson Brizzi moved to make sixteen (16) permits inactive. All are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

RR49-18584 KELLY'S PUB, INC., DL 31-21286 WAL-MART STORES EAST, LP AND DL31-21383 HARBIN'S GENERAL STORE – Chairman Heath stated appeals were filed on the above-referenced permits.

OLD BUSINESS

No Old Business

NEW BUSINESS

CHANGE OF QUOTA JURISDICTION – HOMECROFT, CLERMONT AND WARREN PARK – Industry Liaison Okey stated he is recommending that the Commission change the quota jurisdiction on three, type 217 permits (package store) from the incorporated areas of Homecroft, Clermont and Warren Park. These were not part of UNIGOV, which allowed type 217 permits to go countywide.

Executive Secretary Choe stated that when UNIGOV was first established, the plan was to exclude towns of more than 5,000 people, of which Homecroft, Clermont and Warren Park are not and, therefore, were not part of the UNIGOV equation. The Executive Secretary noted that pursuant to IC 7.1-3-22-8 and Indiana Alcoholic Beverage Commission vs. Baker, these permits should be allowed to move within the jurisdiction of Marion County.

Vice Chairperson Brizzi moved to approve the change of quota jurisdiction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

POLICY DETERMINATIONS

REQUEST REVIEW OF EXCISE PROCEDURES AND POLICIES – Superintendent Huskey stated the Commission was presented a copy of policies that were recently revised and established by the Indiana State Excise Police and set forth by CLEA Standards and the International Association of Chiefs of Police. This is the first review of such policies since 1995. The Superintendent noted that when this process began there were only 27 policies and now there are 117.

Chairman Heath commended Superintendent Huskey and Officer Pat Fulford for their tireless efforts in putting these together. He also stated that the Commission will review the policies and hopefully vote to approve them at the next meeting.

UNDER ADVISEMENT

Nothing Under Advisement

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

Approved this _____ day of _____, 2005.

DAVE HEATH, CHAIRMAN

MELANIE BRIZZI, VICE CHAIRPERSON

DALE STURTZ, COMMISSIONER